



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

MAR 28 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard F. Bergner
Attorney at Law
Registered Agent for National Oil Recovery Corporation
5718 Westheimer, Suite 700
Houston, Texas 77057
713-783-4832 (telephone)
713-783-2502 (telecopy)

**Re: Work Takeover - Falcon Refinery Superfund Site;
2725 Bishop Road, Ingleside, San Patricio County, Texas**

Dear Mr. Bergner:

This letter informs National Oil Recovery Corporation (NORCO) that the United States Environmental Protection Agency (EPA) has determined it necessary to take over performance of the remaining work required under the Administrative Order on Consent for Removal Action in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-04-04 (Removal Order) in accordance with the work takeover provision of Section XX, Paragraph 76 of the Removal Order. In addition, this letter informs NORCO that EPA has determined it necessary to take over the performance of the remaining work required under the Administrative Order on Consent for Remedial Investigation and Feasibility Study, in the matter of Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-05-04 (RI/FS Order) in accordance with the work takeover provisions of Section XXIV, Paragraph 88 and Section XXVII, Paragraph 102 of the RI/FS Order.

The EPA is invoking the work takeover provisions because NORCO has defaulted in the performance of the terms and conditions of the Removal Order and RI/FS Order. On February 10, 2010, NORCO advised EPA that the company was financially unable to continue performing in accordance with the terms of the two Administrative Orders on Consent. Since February 10, 2010, when EPA was advised of NORCO's financial inability to continue performance of the actions required by the Removal Order and the RI/FS Order, EPA has supported NORCO's attempt to sell the refinery because NORCO informed EPA that the sale proceeds would be used to finance the remaining requirements of the two orders. On February 10, 2011, NORCO informed EPA that it had reached an agreement to sell the Site to a prospective purchaser and was prepared, therefore, to resume performance of the work required under the two orders. NORCO indicated that

the closing date for the sale of the refinery would be March 15, 2011. On March 21, 2011, however, EPA was informed that the sale of the refinery did not close. The EPA has determined, therefore, that NORCO has ceased to perform the requirements of Removal Order and the RI/FS Order, and is therefore in default of the terms and conditions of the Removal Order and the RI/FS Order.

In order to finance EPA's work takeover, EPA will be presenting immediately the Letter of Credit for the Removal Order and the Letter of Credit for the RI/FS Order. As specified in Section XXVII, Paragraph 102 of the RI/FS Order, NORCO must provide EPA with the necessary access to these Letters of Credit "in order to takeover the Work and prevent any delays in cleanup."

Additionally, because NORCO has defaulted in the performance of the terms and conditions of the Removal Order and the RI/FS Order, EPA may seek stipulated penalties from NORCO for failing to comply with the Removal Order and the RI/FS Order.

The EPA must have access to all of the data gathered by NORCO in the performance of the Removal Order and the RI/FS Order. As specified in Section X, Paragraph 43 of the Removal Order, within 10 days of receipt of this letter, please provide all site information prepared, obtained or gathered by NORCO and by NORCO contractors related to the performance of the removal work at the Falcon Refinery Site in accordance with the Removal Order. Site information should include all data collected and obtained during the performance of the removal work at the Falcon Refinery Superfund Site, including the information stored in digital format for word processing, graphics design, and other computer-based applications (e.g., WordPerfect [.wpd], MS Word [.doc], Adobe PDF [.pdf]), MS Access [.mdb], MS Power Point [.ppt], graphics and imaging software [.bmp, .tif, .gif, etc], MS Excel [.xls], GIS applications [.mxd, .dbf, .shp], Visual Sample Plan [.vsp], and others). This data should be provided to EPA in a Geographic Information System (GIS) compatible format to the extent feasible, with all GIS data sets in a Universal Transverse Mercator or State Plane coordinate system.

Also, as specified in Section XVI, Section 54 of the RI/FS Order, within 10 days of receipt of this letter, please provide all site information prepared, obtained or gathered by NORCO and by NORCO contractors related to the performance of the Remedial Work at the Falcon Refinery Superfund Site in accordance with the RI/FS Order. Site information should include all data collected and obtained during the performance of the Remedial Work at the Falcon Refinery Site. Data shall include the information stored in any digital format for word processing, graphics design, and other computer-based applications (e.g., WordPerfect [.wpd], MS Word [.doc], Adobe PDF [.pdf]), MS Access [.mdb], MS Power Point [.ppt], graphics and imaging software [.bmp, .tif, .gif, etc], MS Excel [.xls], GIS applications [.mxd, .dbf, .shp], Visual Sample Plan [.vsp], and others). This data should be provided to EPA in a Geographic Information System (GIS) compatible format to the extent feasible, with all GIS data sets in a Universal Transverse Mercator or State Plane coordinate system.

Finally, as NORCO is aware, the Falcon Refinery Site was proposed for listing by the EPA on the National Priorities List (NPL) on September 5, 2002. The EPA agreed to suspend the listing of the Falcon Refinery Site in accordance with guidance for Superfund Alternative Sites so long as NORCO undertook the actions required by the RI/FS Order. As part of its decision to take over the work required by the RI/FS Order, EPA has decided to lift the suspension of the listing of the Falcon Refinery Site on the NPL and list the Site on the Final NPL. As specified in Section XXVI, Paragraph 97 of the RI/FS Order, the Falcon Refinery Site will be listed based on the conditions of the site prior to the initiation of any response activities by NORCO. Paragraph 97 specifies that NORCO may not challenge a final listing based on changed conditions due to a partial cleanup.

If you have any questions pertaining to this letter, please contact Gloria Moran, Assistant Regional Counsel, at 214-665-3193.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Samuel Coleman, P.E.", written in dark ink.

Samuel Coleman, P.E.

Director

Superfund Division